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24 **UNITED STATES DISTRICT COURT**

25 **DISTRICT OF NEVADA**

26 UNITED STATES OF AMERICA and  
27 STATE OF CALIFORNIA *ex rel.* DIXIE  
28 SWITZER, AS EXECUTOR TO THE  
ESTATE OF TED SWITZER, AND DIXIE  
SWITZER;

Plaintiffs,

v.

ROBERT C. WOOD, II; *et al.*;

Defendants.

CASE NO. 2:23-cv-00999-ART-NJK

**JOINT MOTION RE DEADLINES FOR  
RELATORS' FIRST AMENDED  
COMPLAINT**

**(First Request)**

Relator Dixie Switzer in her own stead, and as executor to the estate of Ted Switzer (“Relators”) and Defendants Thomas Dunn, M.D. (“Dr. Dunn”), Archie Perry, M.D. (“Dr. Perry”), TDSW, LLC (“TDSW”), and Kainalu, LLC (“Kainalu,” and collectively with Dr. Dunn, Dr. Perry, and TDSW, the “Joining Defendants”), move jointly for an order extending the deadline for Relators to file a First Amended Complaint by 15 days (from August 21 to September 5), and extending the deadline for Joining Defendants to respond to the First Amended Complaint by a commensurate 15 days (from September 11 to September 26), as set forth herein.

# **I. PROCEDURAL POSTURE**

On August 8, 2023, the Court granted in part the parties’ proposed discovery plan (Dkt. 122) and entered an order setting certain case management deadlines (Dkt. 123). Among the deadlines set by the Court, as relevant here, are:

Amended complaint:	August 21, 2023
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Response to amended complaint:	September 11, 2023
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(Dkt. 123.) With respect to the August 21 deadline for Relators to file their amended complaint, the parties noted in their proposed discovery plan (Dkt. 122 at 2) that:

Moreover, Relators intend to plead additional factual allegations based on certain materials and information obtained by the government during its investigation of Relators’ claims after the initial Complaint was filed. Namely, the government provided 1,931 documents to Relators on July 5, 2023 . . . . Accordingly, Relators anticipate that they will need another 2.5 weeks to complete their review and analysis of such materials and information, and incorporate additional factual allegations into their forthcoming amended pleading.

However, during Relators’ review of the referenced government-provided documents, Relators encountered an email that appeared to be potentially attorney–client privileged, at which point Relators ceased their ongoing review, sequestered the category of the government-provided documents in which the potentially privileged content was contained, and contacted both the government attorneys who handled the investigation and the Joining Defendants’ current counsel in this civil action. The government attorneys advised the parties to reach out to Dr. Perry’s

1 separate counsel who represented him in connection with the government's investigation  
 2 (including Dr. Perry's production of documents to the government in response to a civil  
 3 investigative demand). The Joining Defendants' current counsel initially reached out to Dr. Perry's  
 4 investigation counsel on August 9, but did not receive the requested production to the government  
 5 until August 15. The Joining Defendants plan to complete their review of these documents by  
 6 August 21.

## 7 **II. REASONS FOR REQUESTED DEADLINES**

8 The parties are requesting a 15-day extension of Relators' deadline to file their amended  
 9 complaint, and a commensurate extension of the deadline for defendants' response to the same, to  
 10 allow for additional time (a) for the Joining Defendants current counsel to review the documents  
 11 for potential privilege and assess any issues regarding potential waiver, and (b) for Relators to  
 12 subsequently complete their review of the government-provided documents (excluding any  
 13 materials over which privilege is asserted, once such issues are resolved). Relators and the Joining  
 14 Defendants, through their respective counsel, have met and conferred and have agreed upon the  
 15 requested 15-day extension for the reasons stated.

16 The parties are not requesting any extensions of further deadlines beyond those for  
 17 Relators' amended complaint and Joining Defendants' response thereto; thus, the requested 15-  
 18 day extension will not occasion broader delays to the case more generally. Nor do the parties  
 19 anticipate that the requested 15-day extension will have a material impact on their ability to  
 20 complete discovery by the March 8, 2024, discovery cut-off specified in the discovery plan.

21 Good cause exists for the requested 15-day extension. Good cause is not a rigorous or high  
 22 standard, and courts have construed the test broadly. *Ahanchion v. Xenon Pictures, Inc.*, 624 F.3d  
 23 1253, 1259 (9th Cir. 2010). Here, the parties are requesting a modest extension to allow for  
 24 sufficient time to address an unforeseen issue relating to attorney-client privilege in the most  
 25 prudent manner. Relators want to ensure that they do not inadvertently review any communications  
 26 that may be subject to an assertion of attorney-client privilege, and the Joining Defendants agree  
 27 that Relators should be afforded sufficient time to complete their review of the government-

provided documents once the privilege issue is resolved, and to incorporate any additional allegations into their amended complaint. Accordingly, Relators and the Joining Defendants submit that the agreed-upon 15-day extension is appropriate.

### III. PROPOSED SCHEDULE

Relators and the Joining Defendants propose the following schedule:

- |  |                               |
|--|-------------------------------|
| • Relators' Amended Complaint                  | September 5, 2023             |
|  | <del>August 21, 2023</del>    |
| • Defendants' Response to Amended Complaint    | September 26, 2023            |
|  | <del>September 11, 2023</del> |
| • All Other Dates in Discovery Plan (Dkt. 123) | No Changes                    |

### IV. CONCLUSION

For the reasons discussed above, Relators and the Joining Defendants request a 15-day extension of the deadlines for Relators' amended complaint and Defendants' response thereto.

Dated: August 17, 2023

**COTCHETT, PITRE & McCARTHY LLP**

By: 

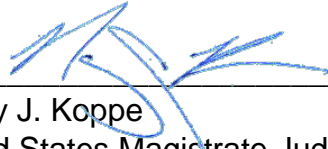
JUSTIN T. BERGER  
GRACE Y. PARK

*Attorneys for Relators*

IT IS SO ORDERED.

Dated: August 18, 2023

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Nancy J. Koppe

United States Magistrate Judge

1 Dated: August 17, 2023

**FOLEY & LARDNER LLP**

2 By: /s/ Thomas F. Carlucci  
3 THOMAS F. CARLUCCI

4 *Attorney for Defendants Thomas Dunn, M.D.,*  
5 *Archie Perry, M.D., TDSW, LLC, and Kainalu,*  
6 *LLC*